

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

OLGA BATLLE,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-cv-01400

ACTAVIS TOTOWA LLC, et al.,

Defendants.

**ORDER**

Pending are (1) plaintiffs' motions to remand [Docket 15 and 17] filed respectively on September 16 and 17, 2008, (2) to amend the complaint to add defendants Mylan Pharmaceuticals, Inc. and UDL Laboratories, Inc. as defendants [Docket 35], filed November 13, 2008, and (3) Defendant Dr. Agnes Mortel's motion to dismiss [Docket 19] filed September 19, 2008. The motion to amend the complaint is unopposed.

On September 8, 2008, while this action was pending in Nevada state court, Defendant Actavis Totowa LLC removed. The notice of removal alleged that Dr. Mortel shared Nevada citizenship with each of the plaintiffs. The notice further alleged that Dr. Mortel was fraudulently joined for the purpose of defeating diversity jurisdiction. Plaintiffs' motions to remand challenged the fraudulent joinder allegation.

On October 1, 2008, plaintiffs stipulated to the dismissal without prejudice of Dr. Mortel. That same day, plaintiffs withdrew their motions to remand. On October 2, 2008, Dr. Mortel withdrew her motion to dismiss. On October 8, 2008, the transferor judge, the Honorable Robert

C. Jones, United States District Judge, approved the stipulated dismissal of Dr. Mortel.

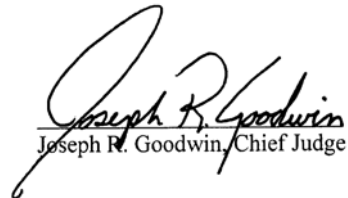
Based upon the foregoing, I **ORDER** as follows:

1. That the motions to remand and to dismiss are **DENIED** as moot; and
2. That the motion to amend is **GRANTED** and the proposed amended complaint shall be filed today.

Counsel is reminded of the obligation of PTO #1, paragraph 7, requiring that all pending motions filed in transferor courts be re-noticed for resolution in a separate motion if intended to be pursued.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 9, 2009

  
Joseph R. Goodwin, Chief Judge